

MINUTES OF THE REGULAR MEETING OF THE DRAINAGE BOARD

OAKLAND-MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT

August 10, 2009

Minutes of a regular meeting of the Drainage Board of the Oakland-Macomb Interceptor Drain Drainage District held at the offices of the Oakland County Water Resources Commissioner, Public Works Building 95 West, One Public Works Drive, Waterford, Michigan on the 10th day of August, 2009, at 1:40 p.m., Eastern Daylight Savings Time.

PRESENT: Karl Hausler, Deputy for Don Koivisto, Director of the Michigan Department of Agriculture; John P. McCulloch, Oakland County Water Resources Commissioner (OCWRC); William Misterovich, Chief Deputy Macomb County Public Works Commissioner (MCPWC) on behalf of Anthony V. Marrocco, MCPWC.

OTHERS PRESENT: Kevin R. Larsen, Chief Deputy, Oakland County Water Resources Commissioner; Craig Hupp Esq., Legal Counsel; Barbara Bowman, Esq., Bond Counsel; John R. Axe, MFCI & Associates – Financial Advisor; Joseph W. Colaianne, OCWRC Attorney and Insurance Administrator; James Pistilli, P.E., Asst. Chief Engineer, MCPWC; Douglas Buchholz, P.E. OCWRC Director of Operations; Sue Coffey, P.E., OCWRC; Michael McMahon, P.E., OCWRC; Philip Sanzica, P.E. OCWRC; Chip Tischer, OCWRC; Lynn Sonkiss, Chief-OC Fiscal Services; Karrie Jager, OC-Fiscal Services; Crystal Sapp, Spalding DeDecker Associates representing Clinton Township; Mike Kozak, Giffels Webster Engineers.

1. Call meeting to order. Chairperson Hausler called the meeting to order at 1:40 PM. Quorum present.
2. Approval minutes of meeting of July 14, 2009.

Member McCulloch requested that the minutes be revised on page 1 to reflect Mr. Pistilli's position as Assistant Chief Engineer; and on page 2 paragraph 2 the Motion that was adopted should read as follows: "Motion by Member Marrocco, seconded by Member McCulloch to have Oakland County serve as first secretary for the Drainage Board with the understanding that within five (5) years the counties will consider the development of a process for the transition of the administration of the

drainage board and evaluate the feasibility of rotating the secretary's position between the counties every five (5) years."

Motion by Member McCulloch, supported by Member Misterovich to approve the July 14, 2009 Minutes as revised.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

3. Public Comments. There were no public comments.

4. Designate the County treasurer which shall serve as treasurer for the Drainage Board, and determine which county's investment policies shall be adopted.

Motion by Member Misterovich, supported by Member McCulloch to designate Oakland County as the treasurer for the drainage district and utilize Oakland County's investment policies.

Discussion. Chairperson Hausler raised the issue of a bond for the County Treasurer. Member McCulloch suggested that the amount of the Oakland County Treasurer's bond be determined and the bond issue be deferred to the next meeting, on September 1, 2009 to determine whether a separate bond for this project is necessary.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

5. Motion by Member McCulloch, supported by Member Misterovich to adopt Plans & Specifications prepared by NTH Consultants, Ltd. and presented by Mr. McMahon.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

6. Motion by Member McCulloch, supported by Member Misterovich to adopt Estimate of Cost of Project as being \$144,601,347.

Discussion. Member Misterovich raised the issue as to why the discrepancy between previously stated \$160,000,000 estimated project cost and the amount identified in the Estimate of Cost of \$144,601,347. Mr. McMahon indicated that the estimate of cost came from what was listed in the project plan and did not provide for

contingency and the \$160,000,000 was a rounded figure. Moreover, Mr. McMahon indicated that we will not know the final estimated cost of the project until the bids are received.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

7. Motion by Member Misterovich, supported by Member McCulloch to Adopt Route Description.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

8. Motion by Member McCulloch, supported by Member Misterovich to Adopt and Designate Area to be Served By the Project, striking "portions of" from written description.

Discussion. Member Misterovich noted that the Area to be Served should include the entire Macomb County Wastewater Disposal District (MCWDD) not "portions of".

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

9. Motion by Member Misterovich, supported by Member McCulloch to Tentatively establish the percentage of the cost of the project to be borne by public corporations in Macomb County at 51.5% and Oakland County 48.5%.

Discussion. Mr. Colaianne noted that there are no county or state highways affected by the project and therefore neither the State of Michigan on account of any state highway or, Macomb and Oakland Counties on behalf of any county roads will receive a percentage of the cost of the project. Member Misterovich noted that in the City of Detroit the State of Michigan may be assessed for the cost for sewer service. Mr. Pistilli noted that the City is a combined sewer system and transports storm water and that no portions of the OMI are combined.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

10. Tentative Apportionments; setting date, time and location for hearing of objections; and Notice of Hearing.

Motion by Member McCulloch, supported by Member Misterovich of the following actions:

- (a) Accept the filing by the Macomb County Public Works Commissioner and Oakland County Water Resources Commissioner with the Secretary of the Drainage Board of the tentative apportionment of the costs to be borne by the public corporations to be assessed in their respective counties, as follows:

**OAKLAND MACOMB INTERCEPTOR DRAIN
TENTATIVE APPORTIONMENT**

OVERALL COUNTY SPLIT

MACOMB	51.50%
OAKLAND	48.50%
	<hr/> 100.00%

MACOMB COUNTY COMMUNITIES

Chesterfield Township	5.2273%
Clinton Township	10.6143%
City of Fraser	2.2419%
Harrison Township	2.9333%
Lenox Township	0.2566%
Macomb Township (includes Washington Township)	7.9141%
Village of New Haven	0.5341%
Shelby Township	4.6171%
City of Sterling Heights	16.2460%
City of Utica	0.9153%
	<hr/> 51.5000%

OAKLAND COUNTY COMMUNITIES

City of Auburn Hills	3.3059%
Independence Township (includes City of Clarkston)	3.1622%
City of Lake Angelus	0.0359%
Village of Lake Orion	0.6612%
Oakland Township	2.0159%
Orion Township	4.6139%
Oxford Township	2.4184%
Village of Oxford	1.1499%
City of Rochester	2.9035%
City of Rochester Hills	12.9326%
Waterford Township	13.4608%
West Bloomfield Township	1.8398%
	<hr/> 48.5000%

- (b) The time, date and place the Drainage Board will meet and hear objections to the tentative apportionments will take place at 1:00 p.m. on Tuesday, September 1, 2009 at the Water Resources Conference Room, Oakland County Water Resources Commissioner's Office, Public Works Building 95 West, One Public Works Drive, Waterford, Michigan.
- (c) Approve the form of notice for such hearing and direct its publication and mailing in accordance with the provisions of the Drain Code, as follows:

NOTICE OF PUBLIC HEARING ON THE TENTATIVE APPORTIONMENTS FOR THE OAKLAND-MACOMB INTERCEPTOR INTERCOUNTY DRAIN

Notice is hereby given that the Drainage Board for the Oakland-Macomb Interceptor Intercounty Drain Drainage District will meet to hold a public hearing to hear objections to the tentative apportionments for the Oakland-Macomb Interceptor Intercounty Drain for the project described in the petitions which were filed with the Director of the Michigan Department of Agriculture on June 18, 2009 by the Charter Township of Clinton of Macomb County, through the Macomb County Public Works Commissioner, and on June 22, 2009 by the Charter Township of Independence of Oakland County, through the Oakland County Water Resources Commissioner (collectively, the "Petition").

The hearing will be held at 1:00 p.m. on Tuesday, September 1, 2009 at the Water Resources Conference Room, Oakland County Water Resources Commissioner's Office, Public Works Building 95 West, One Public Works Drive, Waterford, Michigan.

At the conclusion of the public hearing the Drainage Board will consider the comments made by the public at the hearing and make a determination as to whether it will confirm the apportionments as tentatively made and issue its final order of apportionment or will readjust the apportionments.

The public corporations to be assessed for the cost of the drain, and their tentative apportionments, are as follows:

In Oakland County: City of Auburn Hills (3.3059%), Independence Township (includes City of Clarkston) (3.1622%), City of Lake Angelus (0.0359%), City of Rochester (2.9035%), City of Rochester Hills (12.9326%), Oakland Township (2.0159%), Orion Township (4.6139%), Oxford Township (2.4184%), Village of Lake Orion (0.6612%), Village of Oxford (1.1499%), Waterford Township (13.4608%), and West Bloomfield Township (1.8398%).

In Macomb County: Chesterfield Township (5.2273%), City of Fraser (2.2419%), City of Sterling Heights (16.2460%), City of Utica (0.9153%), Clinton Township (10.6143%), Harrison Township (2.9333%), Lenox Township (0.2566%), Macomb

Township (includes Washington Township) (7.9141%), Shelby Township (4.6171%), and Village of New Haven (0.5341%).

Copies of the Petition are available for public inspection at the Oakland County Water Resources Commissioner's Office, Public Works Building 95 West, One Public Works Drive, Waterford, Michigan (<http://www.oakgov.com/drain/>), and at the Macomb County Public Works Commissioner's Office, 21777 Dunham Road, Clinton Township, Michigan (<http://macombcountymi.gov/PUBLICWORKS/index.htm>).

Dated: August 11, 2009

/s/ John P. McCulloch

Oakland County Water Resources Commissioner,
Secretary

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

11. Motion by Member McCulloch, supported by Member Misterovich to postpone the approval of the following agreements until next regular meeting of the Drainage Board scheduled for September 1, 2009: (a) Acquisition Agreement and related documents between the City of Detroit and the Drain Drainage District; (b) Wastewater contract between the Detroit Water and Sewerage Department and the District, and (c) Wastewater contracts between the District and each of Macomb County and Oakland County.

Discussion. Mr. Hupp noted that the Acquisition Agreement is near final form; working with attorneys representing the City of Detroit on final terms and conditions. Member Misterovich was concerned with the provision in the contract regarding the cancellation of existing wastewater agreements, and in particular whether a condition that allows for the cancellation of a contract when there is outstanding debt service in the rates. Mr. Hupp indicated that this will need to be dealt with in the course of the transaction.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

12. Motion by Member McCulloch, supported by Member Misterovich of a resolution adopting a final State Revolving Fund (SRF) project plan for wastewater system improvements and designating authorized project representatives and agreeing to implement the selected alternative and to

apply to the State of Michigan for a revolving fund loan to assist in the implementation of the selected alternative.

Discussion. Member McCulloch inquired whether, given the time constraints, whether it would be appropriate to grant authority between the two counties to take any necessary action to complete the SRF process. Mrs. Bowman indicated that it was not necessary.

Mr. Pistilli indicated that the Michigan Department of Environmental Quality (MDEQ) indicated that we should only list one person as the designated authorized representative for activities associated with the project. Mr. Pistilli suggested that Mr. Buchholz be listed as the "primary" authorized representative, with Mr. Pistilli as the "secondary" authorized representative.

A RESOLUTION ADOPTING A FINAL PROJECT PLAN FOR WASTEWATER SYSTEM IMPROVEMENTS AND DESIGNATING AN AUTHORIZED PROJECT REPRESENTATIVE

WHEREAS, the Oakland-Macomb Interceptor Drain Drainage District recognizes the need to make improvements to its existing wastewater treatment and collection system; and

WHEREAS, the Macomb County Public Works Commissioner and the Oakland County Water Resources Commissioner, on behalf of the Oakland-Macomb Interceptor Drain Drainage District which was then in formation, authorized Environmental Consulting & Technology, Inc. to prepare a Project Plan, which recommends the structural rehabilitation of the Oakland Macomb Interceptor Drain and necessary ancillary construction. This Plan proposed that this interceptor (approximately 21.4 miles) be rehabilitated to restore a minimum structural life of 20 years through grouting voids, localized repairs and sliplining. Repair of existing gate structures and construction of new control gates will also be required to perform this work; and

WHEREAS, said Project Plan was presented at a Public Hearing held on Wednesday, June 10, 2009 at Utica Public Schools Instructional Resource Center and all public comments have been considered and addressed;

NOW THEREFORE BE IT RESOLVED, that the Oakland-Macomb Interceptor Drain Drainage District formally adopts said Project Plan and agrees to implement the selected alternative (Alternative No. Three—Rehabilitation of the Interceptor).

BE IT FURTHER RESOLVED, that the Director of Operations, Oakland County Water Resource Commissioner's Office a position currently held by Douglas Buchholz, P.E., is designated as the primary authorized representative for all activities associated with the project referenced above, including the submittal of said Project Plan as the first step in applying to the State of Michigan for a revolving fund loan to assist in the implementation of the selected alternative; and that Assistant Engineer, Macomb County Public Works Commissioner's Office a position currently held by James Pistilli,

P.E., is designated as the secondary authorized representative for all activities associated with the project.

BE IT FURTHER RESOLVED, that all actions taken by the Macomb County Public Works Commissioner and the Oakland County Water Resources Commissioner or the authorized representative, or any of them, on behalf of the Oakland-Macomb Interceptor Drain Drainage District prior to its formation and in connection with the project referenced above are hereby ratified, confirmed and approved.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

13. Motion by Member Misterovich, supported by Member McCulloch to Ratify actions taken by the County Agencies for each of Macomb County and Oakland County for the benefit of the District.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

14. Meadowbrook Insurance Contract and Invoices.

Discussion. Mr. Colaianne indicated that pursuant to direction of the drainage board on July 14, 2009 a committee comprising of himself, Mr. Misterovich and Mr. Hupp decided to pursue obtaining additional professional liability insurance and an Owners Controlled Insurance Program for the Project.

With respect to Professional Liability, Mr. Colaianne noted that there were three options available: the district could rely on the engineers insurance currently required under the contract; obtain project specific insurance; or obtain an umbrella policy over and above insurance limits that the engineers have in place. Meadowbrook Insurance solicited proposals from several insurance companies and recommended Zurich Insurance. The premium is \$198,338.00. Meadowbrook's fee is \$29,000. Mr. Colaianne presented two invoices to the drainage board.

Mr. Colaianne also noted that the contract for the Owners Controlled Insurance Program contract was not yet available, but suggested that the board approve a contract subject to review and recommendation of legal counsel. Mr. McCulloch indicated that he would prefer to review the contract before approval and suggest postponing to approval of the contract at the next drain board meeting.

Motion by Member McCulloch, supported by Member Misterovich to Approve two invoices from Meadowbrook Insurance Group, Inc. dated July 28, 2009 related to the Owners Protective Professional Insurance: (a) in the amount of \$198,338.00 – Insurance Premium for the Policy Period of July 27, 2009 December 31, 2014; and (b) in the amount of \$29,000 for Meadowbrook's Service Fee; and to postpone approval of Meadowbrook OCIP contract until September 1, 2009.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

15. Motion by Member Misterovich, supported by Member McCulloch Approving the reimbursement of those costs which are allowable as drain expenses under the Drain Code incurred by Macomb County and Oakland County on the District's behalf or for its benefit.

Discussion. (There was also a discussion on how the counties would split costs going forward. It was determined that until bonds are sold that invoices would be paid in accordance with the Memorandum of Understanding Between the County Agencies, but that this understanding would need to be revised in light of the percentages of costs between the two counties approved by the Board.

AYES: Hausler, Misterovich, and McCulloch

NAYS: None

16. Adjourn. Motion by Member McCulloch, supported by Member Misterovich to adjourn the meeting.

There being no further business to come before the meeting, the meeting was adjourned at 2:30 PM.

I hereby certify that the foregoing constitutes the minutes of the meeting of the Drainage Board of the Oakland-Macomb Interceptor Drain Drainage District, at a meeting held on August 10, 2009, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I have hereunto fixed my official signature on this 18th day of August, 2009.



Commissioner John P. McCulloch, Secretary